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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,208	09/02/2003	George Kuriyan	09710-1189	8563

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WorldCom, Inc.
Technology Law Department
1133 19th Street, N.W.
Washington, DC 20036

EXAMINER

BOAKYE, ALEXANDER O

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/652,208

Applicant(s)

KURIYAN, GEORGE

Examiner

ALEXANDER BOAKYE

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 42, 44, 45 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,678,255.

Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite changing the status of the line to establish communication with the computing device upon receiving acknowledgement from the computing device; transmitting the data to the computing device according to the

physical layer signaling protocol over a wireless point-to-point link using a cellular protocol with the only difference between claims 42, 44 and 45 of the instant application and claim 1 of the patent being that claims 42,44 and 45 of the instant invention recite Data Terminal Equipment while claim 1 of the patent does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using data terminal equipment in order to provide for data communication control function to be performed in accordance with link protocol.

Claim 43 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the cellular protocol includes a cellular protocol includes a Cellular Digital Packet Data (CDPD) protocol.

Claim 46 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the monitoring device in the receiving step includes at least one of a flow measurement device, a temperature measurements device, and a pressure measurement device.

Claims 47, 49, 50 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from

each other because both applications recite changing the status of the line to establish communication with the computing device upon receiving acknowledgement from the computing device; transmitting the data to the computing device according to the physical layer signaling protocol over a wireless point-to-point link using a cellular protocol with the only difference between claims 47, 49 and 50 of the instant application and claim 1 of the patent being that claims 47, 49 and 50 of the instant invention recite Data Terminal Equipment while claim 1 of the patent does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using data terminal equipment in order to provide for data communication control function to be performed in accordance with link protocol.

Claim 48 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6, 678, 255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the cellular protocol includes a cellular protocol includes a Cellular Digital Packet Data (CDPD) protocol.

Claim 51 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3 of U.S. Patent No. 6, 678, 255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the monitoring device in the receiving step includes at least one of a flow measurement device, a temperature measurements device, and a pressure measurement device.

Claims 52, 54 and 55 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite receiving a packet from a monitoring device to initiate communication with a computing device, the packet indicating a status of a line; transmitting the data to a computing device according to the physical layer signaling protocol with the only difference between claims 52, 54 and 55 of the instant application and claim 4 of the patent being that claims 52, 54 and 55 of the instant application and claim 4 of the patent being that claims 52,54 and 55 of the instant invention recite Data Terminal Equipment while claim 4 of the patent does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using data terminal equipment in order to provide for data communication control function to be performed in accordance with link protocol.

Claim 53 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the cellular protocol includes a cellular protocol includes a Cellular Digital Packet Data (CDPD) protocol.

Claim 56 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6, 678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other

because both applications recite wherein the monitoring device in the receiving step includes at least one of a flow measurement device, a temperature measurements device, and a pressure measurement device.

Claims 62, 64, 65, are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite generating data by an application based upon measurement, the application complying with a physical layer signaling protocol' and transmitting the data according to the physical layer signaling protocol to the modem wherein the modem transmits the data to a computing device according to the physical layer signaling protocol over a wireless point-to-point link using a cellular protocol with the only difference between claims 62, 64, 65 of the instant application and claim 7 of the patent being that claims 62, 64, and 65 of the invention application recite Data Terminal Equipment while claim 7 of the patent does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using data terminal equipment in order to provide for data communication control function to be performed in accordance with link protocol.

Claim 63 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other

because both applications recite wherein the cellular protocol includes a cellular protocol includes a Cellular Digital Packet Data (CDPD) protocol.

Claim 66 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the monitoring device in the receiving step includes at least one of a flow measurement device, a temperature measurements device, and a pressure measurement device.

Claims 67, 69 and 70 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent No. 6, 678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite generating data by an application based upon measurement, the application complying with a physical layer signaling protocol and transmitting the data according to the physical layer signaling protocol to the modem wherein the modem transmits the data to a computing device according to the physical layer signaling protocol over a wireless point-to-point link using a cellular protocol with the only difference between claims 67, 69, 70 of the instant application and claim 7 of the patent being that claims 67, 69 ,70 of the instant application recite Data Terminal Equipment while claim 7 of the patent does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using data terminal equipment in order to provide for data communication control function to be performed in accordance with link protocol.

Claim 68 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the cellular protocol includes a cellular protocol includes a Cellular Digital Packet Data (CDPD) protocol.

Claim 71 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the monitoring device in the receiving step includes at least one of a flow measurement device, a temperature measurements device, and a pressure measurement device.

Claims 72, 74 and 75 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite receiving a packet from the monitoring device to initiate communication with the computing device, the packet indicating a status of a line; and setting a second line to acknowledge establishment of the communication with the monitoring device with the only difference between claims 72, 74, 75 of the instant application and claim 10 of the patent being that claims 72, 74, 75 of the instant application recite Data Terminal Equipment while claim 10 of the patent does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using data

terminal equipment in order to provide for data communication control function to be performed in accordance with link protocol.

Claim 73 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the cellular protocol includes a cellular protocol includes a Cellular Digital Packet Data (CDPD) protocol.

Claim 76 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 9 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the monitoring device in the receiving step includes at least one of a flow measurement device, a temperature measurements device, and a pressure measurement device.

Claims 77, 79, 80 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite receive data generated according to a physical layer signaling protocol from a remote monitoring device via a local modem over a wireless point-to-point link using a cellular protocol; and process the data according to an application utilizes the physical layer signaling protocol, wherein the wireless link is transparent to the application with the only difference between claims 77, 79 and 80 of the instant application and claim 10 of the patent being that claims 77, 79

,80 of the instant application recite Data Terminal Equipment while claim 10 of the patent does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using data terminal equipment in order to provide for data communication control function to be performed in accordance with link protocol.

Claim 78 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the cellular protocol includes a cellular protocol includes a Cellular Digital Packet Data (CDPD) protocol.

Claim 81 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,678,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite wherein the monitoring device in the receiving step includes at least one of a flow measurement device, a temperature measurements device, and a pressure measurement device.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 72, 73, 77, 78, and 79 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebowitz (US Patent # 5,454,024).

Regarding claim 72, Lebowitz teaches a method for providing wireless monitoring (Fig. 1A), the method comprising : receiveing data generated according to a physical layer signaling protocol from a remote monitoring device (central monitoring station 39 of Fig. 1A) via a local modem over a wireless point-to-point link using a cellular protocol (column 8, lines 27-38; the claimed physical layer signaling protocol is inherent in CDPD modem of Lebowitz) ; and processing the data according to an application utilizes the physical layer signaling protocol, wherein the wireless link is transparent to the application (column 9, lines 2-4).

Regarding claim 73, Lebowitz teaches that the cellular protocol includes a Cellular Digital Packet Data (CDPD) protocol (column 8, lines 27-38).

Regarding claim 74. Lebowitz teaches that the physical layer signaling protocol includes RS-232, the monitoring device being configured as Data Terminal Equipment (column 10, lines 17-18).

Regarding claim 77, Lebowitz teaches an apparatus for providing wireless monitoring, comprising: an interface configured to receive data generated according to a physical layer signaling protocol from a remote monitoring device via a local modem over a wireless point-to-point link using a cellular protocol (column 8, lines 27-38 ; CDPD modem 24' of Fig. 1A reads on the claimed interface; the claimed physical layer protocol is inherent in CDPD modem of Libowitz); and logic configured to process the

data according to an application utilizes the physical layer signaling protocol , wherein the wireless link is transparent to the application (column 9,lines 2-4).

Regarding claim 78, Lebowitz teaches that the cellular protocol includes a cellular Digital Packet Data (CDPD) protocol (column 8, lines 27-38).

Regarding claim 79, Lebowitz teaches that the physical layer signaling protocol includes RS-232 , the monitoring device being configured as Data Terminal Equipment (column 10, lines 17-18).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (571) 272-3183. The examiner can normally be reached on M-F from 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (571) 272- 3179. The fax number is (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-4750.

Alexander Boakye

Patent Examiner

8/16/06



WELLINGTON CHIN
JULY 11 2006
PATENT EXAMINER